

**PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA**

Resolution ALJ 176-3065  
Administrative Law Judge Division  
June 14, 2001

**R E S O L U T I O N**

RESOLUTION ALJ 176-3065. Ratification of preliminary determinations of category for proceedings initiated by application. The preliminary determinations are pursuant to Article 2.5, Rules 4, and 6.1 of the Commission's Rules of Practice and Procedure. (See also Rule 63.2(c) regarding notice of assignment.)

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The Commission's rules and procedures which implement the requirements of Senate Bill (SB) 960 (Leonard, ch. 96-0856) are, for the most part, found in Article 2.5 of our Rules of Practice and Procedure. The rules and procedures were adopted by the Commission in D.97-11-021, which describes more fully the background to the development of these rules. Rule 4 describes the formal proceedings to which the SB 960 rules (Article 2.5) apply. Rule 6.1 requires the Commission to preliminarily determine a proceeding's category, whether the proceeding requires a hearing, and designate an Assigned Commissioner and Administrative Law Judge. Rule 6.1(a) states that the preliminary determination of category is not appealable but shall be confirmed or changed by Assigned Commissioner's ruling. Unless and until a preliminary determination is changed by such ruling, the preliminary determination of category governs the applicability of the other reforms that SB 960 requires. Rule 63.2 provides for petitioning the Commission to reassign a proceeding to another administrative law judge. Rule 63.2(c) establishes the time for filing such a petition. For purposes of Rule 63.2(c), notice of the assignment is the day the assignments associated with this preliminary categorization document appear in the Daily Calendar following the Commission business meeting.

**The Categories**

SB 960 makes sweeping changes in many aspects of the Commission's practices in an effort to improve the quality and timeliness of Commission decision making. It creates three categories of proceedings: adjudicatory, ratesetting, and quasi-legislative. The applicability of many of the changes it requires depends upon the category assigned to

the proceeding. For example, the ex parte rules which apply differ if the proceeding is categorized as adjudicatory rather than quasi-legislative. The Legislature defined each of these procedural categories in Section 7 of SB 960. Consistent with these definitions, the rules provide that:

“‘Adjudicatory’ proceedings are: (1) enforcement investigations into possible violations of any provision of statutory law or order or rule of the Commission; and (2) complaints against regulated entities, including those complaints that challenge the accuracy of a bill, but excluding those complaints that challenge the reasonableness of rates or charges, past, present, or future.

“‘Ratesetting’ proceedings are proceedings in which the Commission sets or investigates rates for a specifically named utility (or utilities), or establishes a mechanism that in turn sets the rates for a specifically named utility (or utilities). ‘Ratesetting’ proceedings include complaints that challenge the reasonableness of rates or charges, past, present, or future. For purposes of this Article, other proceedings may be categorized as ratesetting as described in Rule 6.1(c).

“‘Quasi-legislative’ proceedings are proceedings that establish policy or rules (including generic ratemaking policy or rules) affecting a class of regulated entities, including those proceedings in which the Commission investigates rates or practices for an entire regulated industry or class of entities within the industry.” (Rules 5(b), 5(c), and 5(d).)

### **Mixed or Unclear Category Proceedings**

For a proceeding that may fall into more than one category, the rules allow parties to recommend that the Commission pick the most suitable category, or to recommend dividing the subject matter of the proceeding into different phases or one or more new proceedings, each with its own category. The rules provide that a proceeding that does not clearly fit into *any* of SB 960’s defined categories will be conducted under the rules applicable to the ratesetting category. As such a proceeding matures, the Commission may determine that the rules applicable to one of the other categories, or some hybrid of those rules, would be better suited to the proceeding.

As stated in D.97-06-071, ratesetting proceedings typically involve a mix of policymaking and factfinding relating to a particular public utility. Because proceedings that do not clearly fall within the adjudicatory or quasi-legislative categories likewise typically involve a mix of policymaking and factfinding, the ratesetting procedures are, in general, preferable for those proceedings.

## **Next Steps**

As stated above, this preliminary determination of category is not appealable. Once interested parties have had an opportunity to respond to the initiating party's proposed category, the preliminary determination shall be confirmed or changed by Assigned Commissioner's Ruling pursuant to Rule 6(a)(3). This Assigned Commissioner Ruling may be appealed to the full Commission pursuant to Rule 6.4(a). Parties have 10 days after the ruling is mailed to appeal. Responses to the appeal are allowed under Rule 6.4(b), and must be filed and served not later than 15 days after the ruling is mailed. The full Commission will consider the appeal.

Any party, or person or entity declaring an intention to become a party is entitled to petition for reassignment of the proceeding to another Administrative Law Judge, as described in Rule 63.2. Such a petition must be filed no later than 10 days after notice of the assignment. For purposes of Rule 63.2(c), notice of the assignment is the day the assignments associated with this preliminary categorization document appear in the Daily Calendar following the Commission business meeting.

## **Conclusion**

The Commission has reviewed the initial pleading of the utility applicants listed in the attached schedule and has made a preliminary determination of category and need for hearing, consistent with the requirements and definitions of Article 2.5 of its rules.

**IT IS ORDERED** that each proceeding listed in the attached schedule is preliminarily categorized, and the need for a hearing is noted.

ALJ/hkr

I certify that the foregoing resolution was duly introduced, passed, and adopted at a conference of the Public Utilities Commission of the State of California held on June 14, 2001, the following Commissioners voting favorably thereon:

/s/ WESLEY M. FRANKLIN

WESLEY M. FRANKLIN  
Executive Director

LORETTA M. LYNCH  
President  
HENRY M. DUQUE  
RICHARD A. BILAS  
GEOFFREY F. BROWN  
Commissioners

Commissioner Carl W. Wood, being necessarily absent, did not participate.

# PRELIMINARY DETERMINATION SCHEDULE

Resolution ALJ 176-3065 (06/14/01)

NUMBER TITLE	PROPOSED CATEGORY	PRELIM. CATEGORY	HEARING
<b>A01-05-043</b> SOUTHERN CALIFORNIA EDISON COMPANY, Application for Rehearing of Resolution M-4801	*	*	*
<b>A01-05-044</b> SAN DIEGO GAS & ELECTRIC COMPANY, SOUTHERN CALIFORNIA GAS COMPANY, Application for Rehearing of Resolution M-4801	*	*	*
<b>A01-05-045</b> CITY OF PLEASANTON, for an Order authorizing construction of a crossing at separated grades between Valley Avenue and the tracks of the Union Pacific Railroad, sometimes referred to as the Valley Avenue Extension Underpass, PUC No.4-40.43B	Ratesetting	Ratesetting	YES
<b>A01-05-049</b> SOUTHERN CALIFORNIA EDISON COMPANY, (U-338-E), for Authority to Lease Available Land on the Mandalay-Santa Clara Right of Way to Ventura Power Storage, LLC	Ratesetting	Ratesetting	NO
<b>A01-05-050</b> SOUTHERN CALIFORNIA EDISON COMPANY, (U-338-E), for Authority to Lease Available Land on the Mandalay-Santa Clara 220kV Transmission Right of Way to Montalvo Development Partners, LLC	Ratesetting	Ratesetting	NO
<b>A01-05-051</b> CALPINE CORPORATION Petition for Modification of Resolution L-293	*	*	*
<b>A01-05-052</b> EXARIO TELECOM, INC., for a Certificate of Public Convenience and Necessity to Provide Resold and Limited Facilities-Based Local Exchange and Interexchange Telecommunications Services within California	Ratesetting	Ratesetting	NO
<b>A01-05-053</b> ACOMM INC., dba NET.ACOMM, for Registration as an Interexchange Carrier Telephone Corporation pursuant to the provisions of Public Utilities Code Section 1013	NDIEC Registration Application	Ratesetting	NO

\*Application for Rehearing and Petition for Modification of Resolution is assigned to Legal Division.  
Categorization/Need for Hearing will be addressed as necessary if the Commission subsequently grants the  
rehearing and petition.

# PRELIMINARY DETERMINATION SCHEDULE

Resolution ALJ 176-3065 (06/14/01)

NUMBER TITLE	PROPOSED CATEGORY	PRELIM. CATEGORY	HEARING
<b>A01-05-054</b> GRUPO AZTECA, LLC, MICHAEL R. PARODIE, dba AIRPORT SHUTTLE, Michael R. Parodie to Transfer Control of his Passenger Stage Authority PSC-6382, pursuant to Section 851 et seq., Public Utilities Code, to Grupo Azteca, LLC; to Extend the Authority of PSC-6382; and to Establish a Zone of Rate Freedom [ZORF] under Section 454.2, Public Utilities Code	Ratesetting	Ratesetting	NO
<b>A01-05-055</b> AMRAT, INC., dba PRIME TIME SHUTTLE, RIDESHARE PORT MANAGEMENT, LLC, pursuant to California Public Utilities Code Section 1031 to Enlarge its Present Authority to include points in both Riverside and San Bernardino Counties	Ratesetting	Ratesetting	NO
<b>A01-05-056</b> THAI-AMERICAN TELECOMMUNICATIONS, INC., for Registration as an Interexchange Carrier Telephone Corporation pursuant to the provisions of Public Utilities Code Section 1013	NDIEC Registration Application	Ratesetting	NO
<b>A01-05-060</b> SANTA CLARA VALLEY TRANSPORTATION AUTHORITY, for an order authorizing construction of an at-grade crossing of Orchard City Drive (82D-6.8), Campbell Avenue (82D-6.7) and Civic Center Drive (82D-6.6), and at-grade pedestrian crossings at Downtown Campbell Station (82D-6.85, 82D-6.86) by the light rail transit line of the Vasona Light Rail Project in the City of Campbell, County of Santa Clara	Ratesetting	Ratesetting	NO
<b>A01-05-061</b> SANTA CLARA VALLEY TRANSPORTATION AUTHORITY, for an order authorizing construction of an at-grade crossing of Fruitdale Avenue (82D-5.0), an at-grade pedestrian crossing at Fruitdale Station (82D-5.06) and an at-grade crossing of Leigh Avenue (82D-5.1) by the light rail transit line of the Vasona Light Rail Project in the City of San Jose, County of Santa Clara	Ratesetting	Ratesetting	NO
<b>A01-05-062</b> SANTA CLARA VALLEY TRANSPORTATION AUTHORITY, for an order authorizing construction of grade separated crossings of Interstate 280 (82D-4.8) and Meridian Avenue (82D-4.9) by the light rail transit line of the Vasona Light Rail Project in the City of San Jose, County of Santa Clara	Ratesetting	Ratesetting	NO

# PRELIMINARY DETERMINATION SCHEDULE

Resolution ALJ 176-3065 (06/14/01)

NUMBER TITLE	PROPOSED CATEGORY	PRELIM. CATEGORY	HEARING
<b>A01-05-063</b> SANTA CLARA VALLEY TRANSPORTATION AUTHORITY, for an order authorizing construction of an at-grade crossings of Race Street (82D-4.5) and Parkmoor Avenue (82D-4.6), and the Race Station pedestrian crossing (82D-4.4) by the light rail transit line of the Vasona Light Rail Project in the City of San Jose, County of Santa Clara	Ratesetting	Ratesetting	NO
<b>A01-05-064</b> SANTA CLARA VALLEY TRANSPORTATION AUTHORITY, for an order authorizing construction of an at-grade crossing of Bascom Avenue (82D-5.5), at-grade pedestrian crossings at Bascom Station (82D-5.39, 82D- 5.41) and an at-grade crossing of Stokes Street (82D-5.3) by the light rail transit line of the Vasona Light Rail Project in the City of San Jose, County of Santa Clara	Ratesetting	Ratesetting	NO
<b>A01-05-065</b> SANTA CLARA VALLEY TRANSPORTATION AUTHORITY, for an order authorizing construction of an at-grade crossing of West San Carlos Street (82D-3.8) by the rail transit line of the Vasona Light Rail Project in the City of San Jose, County of Santa Clara	Ratesetting	Ratesetting	NO
<b>A01-05-066</b> SANTA CLARA VALLEY TRANSPORTATION AUTHORITY, for an order authorizing construction of an at-grade pedestrian crossings at Winchester Station (82D- 7.4 and 82D-7.6) by the light rail transit line of the Vasona Light Rail Project in the City of Campbell, County of Santa Clara	Ratesetting	Ratesetting	NO
<b>A01-05-067</b> 1 COM, INC., dba MASSACHUSETTS COM 1, for Registration as an Interexchange Carrier Telephone Corporation pursuant to the provisions of Public Utilities Code Section 1013	NDIEC Registration Application	Ratesetting	NO
<b>A01-05-069</b> KEBEDE M. KABA, dba AIRPORT & HOTEL SHUTTLE, for authority to operate as a passenger stage corporation between points in San Francisco, San Mateo, Alameda and Santa Clara Counties, and the San Francisco, Oakland and San Jose International Airports; and to Establish a Zone of Rate Freedom [ZORF]	Ratesetting	Ratesetting	NO

# PRELIMINARY DETERMINATION SCHEDULE

Resolution ALJ 176-3065 (06/14/01)

NUMBER TITLE	PROPOSED CATEGORY	PRELIM. CATEGORY	HEARING
<b>A01-05-070</b> MANESH, AMANDEEP SINGH, dba ECONOMY EXPRESS AIRPORTER/LIMO, RANDHAWA, GURVINDER KAUR, dba ECONOMY EXPRESS AIRPORTER/LIMO, RANDHAWA, RAJINDER SINGH, dba ECONOMY EXPRESS AIRPORTER/LIMO, SINGH, GURBACHAN, dba ECONOMY EXPRESS AIRPORTER/LIMO, SINGH, GURPEET, dba ECONOMY EXPRESS AIRPORTER/LIMO, for authority to operate as a Passenger Stage Corporation between points in San Francisco, Santa Clara, Alameda, Contra Costa and San Mateo Counties, and the San Francisco, Oakland and San Jose International Airports; and to Establish a Zone of Rate Freedom [ZORF]	Ratesetting	Ratesetting	NO
<b>A01-05-073</b> OUALID ABDERRAHIM AND REDOUANE, for authority to acquire control of the partnership, doing business as Santa Clara Airporter, holding a Certificate of Public Convenience and Necessity as a Passenger Stage Corporation [PSC-8667]	Ratesetting	Ratesetting	NO
<b>A01-06-001</b> TYCOM NETWORKS (SOLUTIONS) INC., for Registration as an Interexchange Carrier Telephone Corporation pursuant to the provisions of Public Utilities Code Section 1013	NDIEC Registration Application	Ratesetting	NO
<b>A01-06-002</b> ARIES NETWORK, INC., dba ARIES TELECOMMUNICATIONS, for Registration as an Interexchange Carrier Telephone Corporation pursuant to the provisions of Public Utilities Code Section 1013	NDIEC Registration Application	Ratesetting	NO
<b>A01-06-004</b> SANTA CLARA VALLEY TRANSPORTATION AUTHORITY, for an order authorizing construction of at-grade crossings of Ohlone Drive (82C-9.8), Gilchrist Drive (82C-10.6), Giannotta Way/Secondary Mall Entrance (82C-11.2), Primary Mall Entrance (82C-11.5), Wilbur Avenue (82C-13.0), by the light rail transit line of the Capitol Light Rail Project in the City of San Jose, County of Santa Clara	Ratesetting	Ratesetting	NO



# PRELIMINARY DETERMINATION SCHEDULE

Resolution ALJ 176-3065 (06/14/01)

NUMBER TITLE	PROPOSED CATEGORY	PRELIM. CATEGORY	HEARING
<b>A01-06-005</b> SANTA CLARA VALLEY TRANSPORTATION AUTHORITY, for an order authorizing construction of at-grade crossings of Greengate Drive (82C-9.2), Sierra Road (82C-9.4), Berryessa Road (82C-10.0), Penitencia Creek Road (82C-10.4), Mabury Road (82C-10.8), Rainfield Drive/Gimelli Way (82C-11.0), McKee Road (82C-12.0), Gay Avenue (82C-12.4), Madden Avenue (82C-12.5), and Florence Avenue (82C-12.8) of the light rail transit line of the Capitol Light Rail Project in the City of San Jose, County of Santa Clara	Ratesetting	Ratesetting	NO
<b>A01-06-006</b> SANTA CLARA VALLEY TRANSPORTATION AUTHORITY, for an order authorizing construction of an at-grade crossing of Alum Rock Avenue (82C-12.6) of the light rail transit line of the Capitol Light Rail Project in the City of San Jose, County of Santa Clara	Ratesetting	Ratesetting	NO
<b>A01-06-007</b> SOUTHERN CALIFORNIA EDISON COMPANY, (U-338-C) for Authority to Lease Available Land on the Gould-Mesa 220 kV Transmission Right of Way to New Century Auto, LLC	Ratesetting	Ratesetting	NO
<b>A01-06-010</b> METROPOLITAN TELECOMMUNICATIONS/CA., INC, dba METTEL, for a Certificate of Public Convenience and Necessity to Provide Resold and Facilities-Based Local Exchange Telecommunications Services within the State of California	Ratesetting	Ratesetting	NO
<b>A01-06-011</b> LOS ANGELES TO PASADENA METRO BLUE LINE, for an order authorizing the construction of two at-grade crossings for light rail transit across Pasadena Avenue West, Pasadena Avenue East, in the City of South Pasadena, County of Los Angeles, California	Ratesetting	Ratesetting	NO
<b>A01-06-012</b> SAN DIEGO COMMUNICATIONS, L.L.C., for Registration as an Interexchange Carrier Telephone Corporation pursuant to the provisions of Public Utilities Code Section 1013	NDIEC Registration Application	Ratesetting	NO
<b>A01-06-013</b> COUNTY OF LOS ANGELES, DEPT.OF PUB. WORK, for the construction of the grade separation of Lost Canyon Road over the Southern California Regional Rail Authority's mainline crossing No. VY-39.51 in the Unincorporated County of Los Angeles	Ratesetting	Ratesetting	NO

